

Vermont State Workforce Development Board

Final Operating Committee Meeting Minutes

September 15, 2016

I. Call to order

Chair Frank Cioffi called to order the regular meeting of the Vermont State Workforce Development Board Operating Committee at 1:10 pm on September 15, 2016 at 5 Green Mountain Drive, Montpelier, VT, 05601-0488.

II. Roll call

- a) The following members of the Committee were present and constituted a quorum of the Committee: Frank Cioffi, Eileen Illuzzi, Anne Noonan, Jen Kimmich, Lucy Leriche, Dick Marron, Laurie Gunn, Diane Dalmasse (designee of Hal Cohen), Heather Bouchey (designee of Rebecca Holcombe), Greg Maguire, and Jeb Spaulding.
- b) The following staff from the Vermont Department of Labor were present: Maureen Tivnan, Chad Wawrzyniak, Rose Lucenti, Michele Kupersmith, Jason Boss, and Abby Shepard.

III. New business

Presentation by Abby Shepard

a) WIOA Overview and Updates

- i. Operating Committee Role (VT SWDB Governance Document, Art. IV.)
 - 1) The Operating Committee is primarily responsible for: (1) conducting certain activities, as listed below, on behalf of the full Board between meeting dates, and (2) for addressing urgent and/or time-sensitive business when a regular or special meeting cannot occur in time to meet the deadline. All decisions of the Operating Committee shall be reported in writing to the full Board within 10 workdays. In all cases, the Operating Committee shall publish notice of its meetings in accordance with Vermont Open Meeting law, 1 V.S.A. §§ 310–314. The Operating Committee may conduct meetings in the same manner as outlined in Article 5 of this document. A quorum of the Operating Committee shall be seven members. The Chair may be counted as one of the seven in a quorum, and may vote in all matters.

2) The activities that the Operating Committee may engage in, on behalf of the Board, include, but may not be limited to:

- (i) Participating in meetings and activities that promote the work of the Board, such as marketing and advocating for the goals of the Board, WIOA and Vermont's workforce system;
- (ii) Reviewing and responding to state and federal legislative proposals that impact Vermont's workforce system, as necessary;
- (iii) Overseeing the performance of the WIOA Core Partners relative to their state and federal performance measures, and when necessary, providing necessary approval for the submission of documents or reports;
- (iv) Approve the draw-down of federal funding, if necessary; and
- (v) When in the opinion of the Board Chair or Governor, immediate action is warranted, in an emergency, or in the case of an urgent or time-sensitive matter, when a regular or special meeting cannot occur in time to meet the deadline, the Operating Committee may act and make decisions on behalf of the Board; however, no decision of the Operating Committee may amend, alter or repeal this governance document or any resolution or vote of the Board that, by its terms provides that it is not able to be amended or repealed by a committee. Any decision of the Operating Committee under this emergency section shall be communicated in writing to the Board within three business days.

ii. Final Federal Regulations: Overview and Impact on Vermont (Timeline)

- 1) July 22, 2014: Workforce Innovation and Opportunity Act signed into law
- 2) April 16, 2015: Notice of Proposed Rulemaking: USDOL & USDOE draft rules released
- 3) April 1, 2016: Vermont Unified State Plan submitted
- 4) June 29, 2016: Vermont Unified State Plan Deficiencies released; Final Rules released (but not published)
- 5) August 19, 2016: Final Rules published in Federal Register
- 6) Sept. 1, 2016: Vermont Unified State Plan Deficiencies remedies submitted
 - A. All common deficiencies addressed
 - B. Only 2 VDOL deficiencies subject to an "Action Plan":
 - a. Selection of Youth service providers; and

- b. Outreach Strategy for Migrant Seasonal Farm Workers (MSFWs)

- iii. WIOA Workgroups

- 1) Partners
 - A. Core partner programs: the VDOL, the Agency of Education, and the Division of Vocational Rehabilitation
 - B. New required One-Stop Partner under WIOA: TANF (Reach Up, Dept. for Children and Families)
- 2) Purpose
 - A. Regular workgroups convene to work on priority issues for WIOA compliance
 - a. Cross training
 - b. Colocation and common intake
 - c. Data sharing
 - d. Common performance accountability
 - e. Fiscal issues
 - B. Intent is to build on and strengthen existing inter-agency relationships that benefit the individual clients/participants.

Presentation by Eileen Illuzzi, Abby Shepard, and Rose Lucenti

- b) SWDB Youth Committee Presentation**

- i. WIOA Youth Services

- 1) Youth Program, which is currently operated by VDOL, is required to make 14 program elements available to youth:
 - A. E.g. tutoring, study skills training, summer employment, pre-apprenticeship, internships, job shadowing, on-the-job training, occupational skills training, leadership development, supportive services, guidance & counseling, mentoring, financial literacy education,
- 2) Goal of elements is to support:
 - A. attainment of a secondary school diploma or its recognized equivalent,
 - B. entry into postsecondary education, and
 - C. career readiness.

- ii. Current Issue

- 1) *Youth Service Providers & the Workforce Investment Act of 1998 (WIA)*
- 2) Under WIA, the VDOL operated under a waiver to provide Youth services directly.
 - A. The waiver was necessary to overcome the challenges of providing statewide services in a rural state.

- 3) Without a waiver, contracts for Youth services would have been required to be awarded on a competitive basis, through a bid process.

- A. The SWDB would have had to conduct the selection process.

iii. Action Required

- 1) *Selection of Youth Service Providers & WIOA*
- 2) Under the current law, WIOA, there are now three options for selecting Youth service providers
 - A. Direct provision of some or all Youth services by the fiscal agent (VDOL);
 - B. Competitive selection of Youth service providers; or
 - C. Sole source selection of Youth service providers.
- 3) *To comply with WIOA, the SWDB must choose and implement 1 of the 3 options for selecting Vermont's Youth service delivery model.*
- 4) *(1) Direct provision of Youth services by fiscal agent*
 - A. To opt for the direct provision of Youth services by VDOL, as the Youth Program fiscal agent, the SWDB would need to affirmatively authorize VDOL to continue to offer its current services.
 - a. In that case, there would be no requirement to competitively bid for WIOA Youth services.
- 5) *(2) Competitive selection of youth service providers*
 - A. If the competitive selection option is chosen, the SWDB will need to undertake a bidding process.
 - a. This process must be conducted in accordance with both federal procurement law and Vermont guidelines.
 - b. Vermont allows for a "simplified bid process" for contracts under \$100,000. However, all contracts over \$100,000 must go through a standard bidding process using a request for proposals (RFP).
 - B. A standard competitive bidding process entails:
 - a. Drafting a compliant RFP;
 - b. Giving public notice of the RFP;
 - c. Identifying providers according to criteria in State Plan.

- i. Youth service providers' ability to meet WIOA performance measures must be taken into consideration; and
 - d. Selecting providers, awarding contracts, maintaining documentation, monitoring and oversight, EEO compliance.
 - 6) *(3) Sole source selection of youth service providers*
 - A. The sole source option requires the SWDB to establish a policy that defines what constitutes an insufficient number of youth service providers.
 - a. SWDB must decide how to measure "insufficient"
 - i. Example of a "rural area" is given as a reason for making the determination.
 - ii. But the actual measure (e.g., according to census data) is not provided in either the WIOA statute or the final regulations.
 - b. Next, the SWDB must apply its policy to determine whether Vermont lacks youth service providers.
 - c. If the SWDB came to that conclusion, then contracts could be awarded to youth providers on a sole source basis.
 - d. The SWDB must follow both federal procurement law and Vermont guidelines for sole source contracts.

iv. VDOL's Roles

- 1) Fiscal Agent
 - A. VDOL is authorized by the Governor and the SWDB to administer, draw down, transfer, and report on federal WIOA funds and program activities.
- 2) Operational and Administrative Support
 - A. The SWDB has designated VDOL to provide the SWDB with administrative and operational support.
- 3) Youth Program
 - A. Since 2001, VDOL has operated under a waiver to run the Youth Program and offer WIOA youth services across the state.

v. Youth Services Provided by VDOL

- 1) VDOL's WIOA Youth Program is a statewide network serving at-risk youth in Vermont through case management, peer mentoring, support, and training.

- 2) Youth Program staff carry out a multitude of tasks:
 - A. Recruitment & Outreach
 - B. Service Delivery
 - C. Follow up

vi. DISCUSSION, QUESTIONS, AND ANSWERS

- 1) Q: Laurie Gunn sought clarification on exact results of vote, whether it impacted VDOL, VocRehab, or both, and which Youth are actually served (only at-risk?)
 - A. A: Rose Lucenti clarified that only VDOL provides Youth services, not VocRehab, although VDOL does partner with many other State agencies like VocRehab, as well as other community-based Youth service providers.
 - B. A: Rose Lucenti and Diane Dalmasse responded. At-risk youth are the target population for Youth services using WIOA funds. However, the required percentage of funds to be spent on either in-school youth or out-of-school youth depends on whether VR or VDOL is providing the service. VR is required to spend 15% on in-school youth, while VDOL is required to spend 75% of its funding on out-of-school youth.
- 2) Q: Heather Bouchey asked about the duration of this authorization.
 - A. A: Abby Shepard responded: four (4) years
- 3) Q: Jen Kimmich asked about how State agencies currently share information and data on WIOA participants.
 - A. A: Anne Noonan and Abby Shepard responded that each agency has its own data system, and that the systems are not integrated.

Presentation by Annie Noonan and Abby Shepard

c) WIOA One-Stop Operator Procurement

i. Current Issue: Selection of One-Stop Operator

- 1) Under WIOA and the final federal regulations, there are now 2 options for selecting a one-stop operator:
 - A. Competitive selection; or
 - B. Sole source selection.
- 2) The SWDB must choose and implement 1 of these 2 options for selecting Vermont's One-Stop Operator.
 - A. The Governor must agree to the SWDB's selection.
 - B. The SWDB has the authority to terminate for cause the One-Stop Operator.

ii. Deadlines

1) *Preparing for the Selection Process*

The SWDB must demonstrate that it is taking steps to prepare for competition of its One-Stop Operator, which may include market research, requests for information or proposals, and conducting a cost and price analysis.

2) *One-Stop Operator Must be in Place & Operating Center*

A. No later than July 1, 2017, the One-Stop Operator selected must be in place and operating the One-Stop Center.

a. Notifications to the VSEA and potentially affected employees must take place according to statutory deadlines (Vermont Statutes Annotated, Title 3), and the collective bargaining agreement.

iii. Background

1) The SWDB will need to undertake the One-Stop Operator selection process once every four years.

A. This process must be conducted in accordance with both federal procurement law and Vermont guidelines.

2) Currently, the VDOL is the Operator of Vermont's One-Stop System. The SWDB officially designated the VDOL as the One-Stop Operator through an MOU.

iv. Option 1: Competitive selection

1) In Vermont, all contracts over \$100,000 must go through a standard bidding process using a request for proposals (RFP).

2) A standard competitive bidding process entails:

A. Drafting a compliant RFP;

B. Giving public notice of the RFP; and

C. Selecting providers, awarding contracts, maintaining documentation, monitoring and oversight, ensuring EEO compliance.

v. Option 2: Sole Source Selection

1) Sole source selection is a "no bid" process, where the SWDB would only solicit bids for the operation of Vermont's one-stop system from one contractor.

2) The SWDB may select a One-Stop Operator through sole-source selection when allowed by State policies and procedures used by the State for competitive procurement with non-federal funds.

3) These policies and procedures are set out in Vermont's Bulletin 3.5. (Bulletin 3.5 (2016), § VIII(D)(1))

- 4) Under Bulletin 3.5, for the SWDB to choose the sole source option, the SWDB must show that there is no available alternative. A clear and convincing link must exist between the service requirements sought, and the reasons why the sole source contractor is “the only one capable” of meeting the requirements. Possible sole source uses might include:
- A. an unusual and compelling urgency, such as when health, public safety, or the conservation of public resources is at stake;
 - B. situations posing extreme financial consequences to the State;
 - C. legislatively mandated situations; and,
 - D. when required by a warranty or proprietary license agreement.

vi. DISCUSSION, QUESTIONS, AND ANSWERS

- 1) Chad Wawrzyniak explained the amount put out to bid (\$850,000) was based on the current Adult and Dislocated Worker program funding received by the program fiscal agent, VDOL.
- A. \$2 million: Adult program total federal funding
 - 15% set aside per WIOA in Governor’s statewide reserve
 - services for participants
 - administrative and overhead costs
 - = \$650,000 remaining, put out to bid
 - B. \$350,000: Dislocated Worker program total federal funding
 - 15% set aside per WIOA in Governor’s statewide reserve
 - 25% set aside per WIOA in Governor’s statewide reserve for Rapid Response activities
 - = \$200,000 remaining, put out to bid
 - C. Noted that the amount bid out is approximate, is subject to final federal funding, and therefore could change.
- 2) Q: Jeb Spaulding asked what entity is currently providing the services being put to bid, and who else could or would be able to provide these services.
- A: Anne Noonan answered that the VDOL is currently providing all of the WIOA Title I Adult and Dislocated Worker services, and under an MOU with the SWDB signed in February 2016 that was approved by the Governor, is currently acting as the One-Stop Operator. There are other public and private entities that could bid, such as those that operate One-Stop Centers in other states.

- 3) Q: Laurie Gunn inquired whether there are bodies in Vermont who would bid, and Dick Marron asked Jeb Spaulding whether the Community College of Vermont (CCV) might bid.
A: Jeb Spaulding responded that CCV could provide the services sought, but would not likely bid, especially given the small amount out for bid (approx. \$800,000).
- 4) Discussion of standard bid process and requirements, especially regarding conflicts of interest (Heather Bouchey)
 - A. Abby Shepard mentioned that as administrative support staff to the SWDB, both her position and Michele Kupersmith's position are matrix managed by the Commissioner of Labor and the Chair of the SWDB.
 - B. Abby Shepard also mentioned that the Dept. of Buildings and General Services (BGS) will be involved in administering the RFP process.
- 5) Discussion of possible inefficiency resulting from duplication of efforts if a non-state entity is selected to run the Adult and Dislocated Worker program and the One-Stop system, due to the fiscal reporting requirements attached to the federal funding for the services, and the fact that the VDOL is the fiscal agent for the program as designated by the Governor.
- 6) Discussion of process for approving allowable expenses, and the need for VDOL to retain oversight as the Governor's delegated fiscal agent in order to avoid disallowed costs.
- 7) Discussion of possible effects of privatization, notably the loss of jobs, and the impact on classified State employees.
- 8) Discussion of for-profit services provided in other states by for-profit entities that operate One-Stop Centers.

d) References

- i. WIOA: <https://www.gpo.gov/fdsys/pkg/PLAW-113publ128/pdf/PLAW-113publ128.pdf>
- ii. Final Federal Regulations: <https://www.gpo.gov/fdsys/pkg/FR-2016-08-19/pdf/2016-15977.pdf>
<https://www.gpo.gov/fdsys/pkg/FR-2016-08-19/pdf/2016-15975.pdf>
- iii. Code of Federal Regulations: http://www.ecfr.gov/cgi-bin/text-idx?SID=688138b5677a19b0bc690ca9f6aefd98&mc=true&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl
- iv. State of Vermont Bulletin 3.5: <http://aoa.vermont.gov/bulletins/3point5>

IV. Votes

a) Youth Services

- i. Eileen Illuzzi moved, and Greg Maguire seconded, to recommend to the SWDB to authorize the Vermont Department of Labor, as the fiscal agent of the WIOA Youth Program, to continue to provide all WIOA Youth services in Vermont.
- ii. Committee members present voted in favor of the motion 10-0; 1 member abstaining (Anne Noonan).

b) Request for Proposals, One-Stop Operator Selection

- i. Dick Marron moved, and Jen Kimmich seconded, to authorize the Operating Committee to proceed with publicly releasing the presented RFP for a One-Stop Operator and Provider of WIOA Title I Adult and Dislocated Worker services, and to conduct the bid selection process on behalf of the SWDB.
- ii. Committee members present voted in favor of the motion 10-0; 1 member abstaining (Anne Noonan).

V. Next meeting

Vermont State Workforce Development Board regular meeting at 1:00 pm on September 27, 2016 at the Capitol Plaza Hotel & Conference Center, 100 State Street, Montpelier, VT 05602.

VI. Adjournment

Chair Frank Cioffi adjourned the meeting at 3:00 pm.

Minutes submitted by: Abby Shepard

Minutes approved by: